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## **Ordinance on Internet Domains (OID)**

of 5 November 2014 (Status as of 1 November 2017)

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*The Swiss Federal Council,*

based on Articles 28 paragraph 2 and 2<sup>bis</sup>, 48a, 59 paragraph 3, 62 and 64 paragraph 2, of the Telecommunications Act of 30 April 1997<sup>1</sup> (TCA),

*ordains:*

### **Chapter 1 General Provisions**

#### **Art. 1 Aim**

<sup>1</sup> The aim of this Ordinance is to ensure that private individuals, businesses and public bodies in Switzerland are offered a sufficient, reasonably priced, high quality range of internet domain names that fulfils their requirements.

<sup>2</sup> It must in particular:

- a. ensure the efficient, transparent and judicious use of the top-level domains that Switzerland is responsible for managing;
- b. preserve the security and availability of the infrastructure and the services necessary for the operation of the domain name system (DNS);
- c. ensure that Swiss law and the interests of Switzerland are respected during the management and use of the top-level domains that have an effect in Switzerland.

#### **Art. 2 Scope**

<sup>1</sup> This Ordinance governs:

- a. the country code Top-Level Domain [ccTLD]) «.ch» and its transpositions in other alphabets or graphic systems;
- b. the generic Top-Level Domain [gTLD]) «.swiss»;
- c. the generic Top-Level Domains the management of which has been entrusted to Swiss public bodies other than the Confederation.

AS 2014 4179

<sup>1</sup> SR 784.10

<sup>2</sup> It applies to the situations which have an effect on these domains, even if they occur abroad.

### **Art. 3** Definitions

The terms and abbreviations used in this Ordinance are explained in the Annex.

### **Art. 4** General tasks

<sup>1</sup> Unless this Ordinance provides otherwise, the Federal Office of Communications (OFCOM) exercises all the powers, functions or tasks which are related to the top-level domains managed by the Confederation.

<sup>2</sup> It ensures that Switzerland's sovereignty and of the interests are safeguarded in the DNS and in the management and use of top-level domains and of domain names subordinate to them.

<sup>3</sup> It may take any measures in order to contribute to the security and availability of the DNS.

### **Art. 5** International relations

<sup>1</sup> OFCOM safeguards the interests of Switzerland in the international forums and organisations which deal with questions associated with domain names or other internet addressing resources.

<sup>2</sup> It may invite delegates (Art. 32 para. 1) and other persons entrusted with all or some of the functions or tasks which are associated with a top-level domain managed by the Confederation or other Swiss public bodies to take part in the work of the international forums and organisations, where they shall safeguard the interests of Switzerland. It may give them instructions.

### **Art. 6** Provision of information by OFCOM

OFCOM shall inform interested parties about the DNS and of the evolution of the international regulations and of the global domain name market.

## **Chapter 2 General Provisions for the Domains managed by the Confederation**

### **Section 1 Object and Organisation**

#### **Art. 7** Object

The provisions of this chapter govern the top-level domains managed by the Confederation, as well as the management and the allocation of second-level domain names which are subordinate to them.

**Art. 8** Organisation

<sup>1</sup> Domains are managed by the registry and by registrars.

<sup>2</sup> OFCOM acts as the registry or delegates this task to a third party.

<sup>3</sup> It may act as a registrar if no satisfactory registration services are offered on the market.

**Section 2** Registry**Art. 9** General

<sup>1</sup> The registry manages the domain in a rational and judicious manner. It acts in a transparent and non-discriminatory manner.

<sup>2</sup> It has personnel who have the professional qualifications and knowledge necessary to fulfil its various tasks. It shall appoint a technical manager.

<sup>3</sup> OFCOM may issue regulations on the quality and security of the registry services and the methods of monitoring the security and resilience of the infrastructures.

**Art. 10** Tasks

<sup>1</sup> The registry has the following tasks:

- a. to provide the services, operations and functionalities of the DNS required in accordance with the rules which apply at an international level, in particular:
  1. keeping a log of activities,
  2. administering and updating the databases, including all information relating to the domain in question which is necessary for carrying out its tasks,
  3. managing the primary and secondary name servers while ensuring the distribution of the zone file to these servers,
  4. allocating domain names to IP addresses,
  5. installing, managing and updating a WHOIS database;
- b. providing the registrars with a system for the submission and administration of applications for the registration of domain names (registration system) and specifying the procedures and technical and organisational conditions relating to the registration and management of domain names by the registrars;
- c. assigning and revoking rights of use of domain names;
- d. providing a technical and administrative procedure allowing an easy transfer between registrars of the management of domain names, when this is required by their holders;
- e. establishing the dispute resolution services (Art. 14);

- f. ensuring the acquisition, installation, operation and updating of the necessary technical infrastructure;
- g. taking appropriate measures to ensure the reliability, resilience, accessibility, availability, security and operation of the infrastructure and the necessary services;
- h. advising the registrars concerned immediately of any interruption in the operation of the DNS, its infrastructure or its registration services;
- i. combating cybercrime in accordance with the provisions of this Ordinance;
- j.<sup>2</sup> providing a specific and easily accessible website featuring all useful information on the activities of the registry;
- k.<sup>3</sup> ...

<sup>2</sup> The registry does not monitor the activities of registrars and holders in a general and continuous manner. Subject to Article 51 letter b, it is not obliged to actively investigate facts or circumstances suggesting that illegal activities have been carried out using domain names.

#### **Art. 11** Log of activities

<sup>1</sup> The registry shall enter in a log the activities in connection with the registration and allocation of domain names, changes thereto, transfers thereto, decommissioning and revocations thereof.

<sup>2</sup> It shall archive the data entered and the corresponding supporting documentation for ten years starting from the revocation of a domain name.

<sup>3</sup> Any person has the right to consult the file in the activities log relating to a specific domain name. The registry lays down the technical and administrative methods of consultation. It may request remuneration for consultation.

#### **Art. 12** Backup of the registration and management system

<sup>1</sup> When the registry function is delegated, the registry may be obliged by OFCOM to conclude with an independent nominee a contract under private law which relates to the backing up for the benefit of OFCOM of the system of registration and management of a top-level domain including all the data and information relating to the holders and to the technical characteristics of allocated domain names in particular.

<sup>2</sup> OFCOM may give instructions to the nominee and use or allow the use of the system, the data and the information backed up only in the following circumstances:

- a. the registry is subject to bankruptcy, liquidation or debt-restructuring proceedings;
- b. the registry ceases its activity but does not transmit to the new registry or OFCOM the data or information necessary to manage the domain;

<sup>2</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>3</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS 2017 5225).

- c. the registry is no longer able to perform its function or one of its tasks;
- d. extraordinary circumstances, such as a natural disaster, so require.

**Art. 13** Personal data

<sup>1</sup> The registry may process personal data concerning registrars, applicants and holders of domain names, the dispute resolution service and their experts or any other person involved in the management of the domain concerned to the extent that and for as long as is necessary:

- a. to manage the domain concerned;
- b. to accomplish the registry function and fulfil the obligations which derive for it from this Ordinance, its implementing provisions or its delegation contract;
- c. for the stability of the DNS;
- d. to obtain payment of the amounts due for registry services.

<sup>2</sup> Subject to Article 11 paragraph 2, the registry may process personal data for a maximum of 10 years.

**Art. 14** Dispute resolution services

<sup>1</sup> The registry shall establish the required dispute resolution services. It shall regulate the organisation of and the procedure for these services while respecting the following rules and principles:

- a. the services provide extrajudicial dispute resolution processes conducted by neutral and independent experts;
- b. the services are responsible for ruling on disputes between holders of domain names and holders of trademark rights;
- c. the decisions of the experts concerning domain names have mandatory force for the registry concerned, unless a civil action is raised within the deadline allowed by the rules of procedure;
- d. the decisions of the experts relate to the legitimacy of the allocation of a domain name; they may not award damages or pronounce on the validity of a claim under trademark law;
- e. the rules governing the resolution of disputes must be based on accepted best practice;
- f. the procedure must be fair, transparent, rapid and beneficial; the experts mandated by the services may not be subject to any general or particular directive on the solution of a dispute; they may take all steps necessary for the resolution of a dispute;
- g. the dispute resolution procedure ends with the withdrawal of the application, the conclusion of an agreement between the parties, the decision of the experts or the opening of a civil action.

<sup>2</sup> The structure of the organisation, the rules governing the resolution of disputes, the rules of procedure and the appointment of the experts called upon to come to a decision require the approval of OFCOM. Beforehand, the latter shall seek the opinion of the Swiss Federal Institute of Intellectual Property and the Federal Office of Justice.

<sup>3</sup> On request, the registry shall transmit to the acting dispute resolution service all the personal data in its possession which is necessary for the resolution of a dispute.

<sup>4</sup> It may publish or arrange to have published the decisions taken by the experts. The parties' names and other personal information may only be published if such details are essential in order to understand the decisions.<sup>4</sup>

**Art. 15<sup>5</sup>** Measures on suspicion of abuse: blocking

<sup>1</sup> The registry may block a domain name technically and administratively for a maximum of five days if there is reason to believe that the domain name in question is being used to:

- a. access critical data by illegal methods;
- b. distribute or use malicious software; or
- c. support the acts mentioned in letters a or b.

<sup>2</sup> It may extend the period in which the domain name is blocked for a maximum of 30 days if:

- a. there is justifiable suspicion that the holder has provided false identification information or is unlawfully using the identity of a third party; and
- b. there is an urgent need to avert imminent prejudice that cannot easily be remedied.

<sup>3</sup> A service to combat cybercrime recognised by OFCOM may extend the period in which the domain name is blocked for a maximum of 30 days if the requirements in accordance with paragraph 1 are met.

<sup>4</sup> The blocking of a domain name for longer than the maximum periods set out in this article is only permitted if ordered by the Federal Office of Police (fedpol).

**Art. 15a<sup>6</sup>** Measures on suspicion of abuse: redirecting of data traffic

The registry shall redirect data traffic sent to or via a domain name for analysis if the following requirements are met:

- a. the domain name concerned is blocked in accordance with Article 15;
- b. the processing of information serves only to identify and notify persons affected by acts under Article 15 paragraph 1 and to analyse the process so that techniques may be developed to recognise, stop, limit or track such acts;

<sup>4</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>5</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>6</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

recorded information that is not related to these acts may not be used and must be deleted immediately;

- c. the redirecting of data traffic for analysis shall be requested by:
  1. a service under Article 15 paragraph 3 for a maximum of 30 days,
  2. by fedpol.

**Art. 15<sup>b7</sup>** Measures on suspicion of abuse: Notification and request for identification

<sup>1</sup> The registry shall immediately notify the holder of the domain name concerned electronically about the blocking of a domain name or the redirecting of data traffic.

<sup>2</sup> It shall simultaneously ask the holder to indicate, if required, a valid correspondence address in Switzerland and to identify itself within 30 days.

<sup>3</sup> Notification to the holder may be given at later time if this is necessary in order to protect overriding public or private interests.

**Art. 15<sup>c8</sup>** Measures on suspicion of abuse: decision and revocation

<sup>1</sup> fedpol shall issue a decision on the blocking or redirecting of data traffic if the holder, within the 30 days following notification of the measure by registry:

- a. requests such a decision;
- b. identifies itself correctly; and
- c. indicates a valid correspondence address in Switzerland if it or its registered office or place of residence is located abroad.

<sup>2</sup> If holder fails to identify itself correctly or to indicate a valid correspondence address in Switzerland within this period, the registry shall revoke the allocated domain name.

**Art. 15<sup>d9</sup>** Measures on suspicion of abuse: unallocated domain names

The registry may on its own initiative or must on request from a service in terms of Article 15 paragraph 3 take the following measures in respect of unallocated domain names if there is reason to believe that the name could be allocated or used unlawfully or for an unlawful purpose:

- a. it shall allocate the domain name to itself or to a third party that offers to assist in combating cybercrime;
- b. it shall redirect data traffic sent to or via the domain name for analysis.

<sup>7</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>8</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>9</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

**Art. 15<sup>e10</sup>** Measures on suspicion of abuse: documentation and report

<sup>1</sup> The registry shall document the blocking of a domain name and the redirecting of data traffic.

<sup>2</sup> It shall submit a report to BAKOM periodically or on request. The registry may also pass on the report to services recognised in terms of Article 15 paragraph 3.

**Art. 16** Administrative assistance and co-operation

<sup>1</sup> The registry may collaborate with any third party which provides assistance in identifying and evaluating threats, abuses and dangers which affect or might affect the management of the domain for which it is responsible, the infrastructure dedicated to this management or the DNS. It shall ensure that the third parties concerned can, on a voluntary basis, exchange with it in a secure manner personal information and data on these threats, abuses or dangers. It may disclose such personal information and personal data to them, if necessary without the knowledge of the persons concerned. This disclosure may take place in the retrieval procedure.<sup>11</sup>

<sup>2</sup> It shall report to the specialist federal services incidents concerning security of information that affect the domain for which it or the DNS is responsible. It may process personal data in connection with these incidents and communicate it to the specialist services, if necessary without the knowledge of the persons concerned. This disclosure may take place in the retrieval procedure or by means of the block transmission of data.<sup>12</sup>

<sup>3</sup> At the request of a Swiss authority intervening within its sphere of competence, the registry shall request the holder of a domain name without a valid Swiss correspondence address to indicate such an address and to disclose its identity within 30 days. The registry shall revoke the domain name if the holder does not comply within the time limit; it shall notify the requesting Swiss authority of the revocation.<sup>13</sup>

<sup>4</sup> Otherwise, Article 13b TCA applies by analogy to the administrative assistance guaranteed by the registry.

**Section 3 Registrars****Art. 17** Registrar contract

<sup>1</sup> A registrar may offer registration services only if it:

- a. can provide evidence that it has concluded a registration contract with ICANN when the rules which apply at international level so require for the domain concerned; and if it

<sup>10</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>11</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>12</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>13</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).



- b. has concluded with the registry a contract relating to the registration of domain names (registrar contract).

<sup>2</sup> The registry must conclude a registrar contract when the applicant meets the following conditions:

- a. it undertakes to comply with Swiss law, in particular this Ordinance and its implementing provisions as well as its registrar contract;
- b. it has a valid correspondence address in Switzerland;
- c. it masters the hardware and software as well as the technical rules making it possible to carry out registrations and other administrative operations with the registry;
- d. it has put in place a procedure for verifying the identification data provided by applicants for domain names;
- e. it has the human and technical resources necessary to ensure the maintenance and updating of the administrative and technical data provided by applicants for or holders of domain names;
- f. it has the information technology hardware and software necessary to ensure the security of the personal data provided by applicants for domain names and archives the latter in conformity with the provisions of the Federal Act of 19 June 1992<sup>14</sup> on Data Protection.
- g. it has provided the required guarantees in the event of doubtful solvency or of non-payment; the amount of these guarantees, attracting a rate of interest that applies to savings accounts, shall not exceed the anticipated risk to the registry.

<sup>3</sup> The application to conclude a registrar contract is addressed to the registry. It includes all the documents, data and information that make it possible to assess compliance by the applicant with the prescribed conditions.

<sup>4</sup> Any change in the facts on which the registrar contract is based must be communicated to the registry.

<sup>5</sup> The registrar contract may not derogate from the rules prescribed by this Ordinance and its implementing provisions. In addition, the registry shall comply with the principles of non-discrimination and transparency in its contractual relations with registrars.

<sup>6</sup> The registrar contract is governed by public law when the registry function is exercised by OFCOM (contract under administrative law) and by private law when the registry function is delegated (contract under private law).

<sup>7</sup> The registry terminates the registrar contract without compensation when a registrar so requests, no longer meets the conditions imposed on the exercise of its function, ceases all activity or is subject to bankruptcy or liquidation proceedings. It must inform the holders of the domain names managed by the registrar concerned of the cancellation of a registrar contract in the appropriate manner.

<sup>8</sup> Article 40 paragraphs 1, 3 and 4, and Article 41 apply by analogy to the surveillance of registrars exercised by OFCOM.

**Art. 18** Information of the public

<sup>1</sup> The registry shall provide the public with the details of the requirements for a registrar contract and the list of registrars that have concluded a contract, with their name and corporate name, their postal address, their telephone number and their email and internet site addresses.

<sup>2</sup> It shall supply registrar contracts to third parties which request them. The clauses and annexes containing confidential commercial information are not published.

**Art. 19** Right of access to the registration system

<sup>1</sup> Registrars which have concluded a contract may access the registry's registration system and register and administratively manage domain names in the name of and on behalf of third parties. They may allocate domain names to themselves on their own behalf for their own needs.

<sup>2</sup> They may claim their right only insofar as the access is carried out in accordance with the technical or organisational procedures and conditions specified by the registry.

**Art. 20** Obligations of registrars

<sup>1</sup> Registrars must propose an offering consisting exclusively of the allocation of a domain name (unbundled offering).

<sup>2</sup> They must guarantee their customers at all times the opportunity to transfer the administrative management of a domain name to a new registrar. Civil claims for non-execution of the contract are reserved.

<sup>3</sup> Registrars must retain commercial correspondence, supporting documentation, titles and log files classified according to domain names for a period of 10 years from the end of registration of a domain name. They shall present them, on request, to the registry within 3 working days at the latest.

<sup>4</sup> Registrars must:

- a. collaborate with the registry and provide it with all necessary technical and organisational assistance and support in order to ensure the continuity and the security of the administration of the domain names;
- b. ensure that holders of the domain names for which they provide administrative management are informed of the cessation of any registrar's activities and of the steps to be taken to safeguard their claims.

**Art. 21** Duties to provide information

<sup>1</sup> Registrars shall report to the registry any requested or registered domain names of a nature which is manifestly illegal or contrary to public order as soon as they are aware of them.

<sup>2</sup> They shall immediately report to the registry any technical disturbance which they detect on their systems, the registration services of the registry or the operation of the DNS.

<sup>3</sup> They shall immediately forward or arrange for the forwarding of all the information on the registry to the holders or the applicants. Registrars shall notify their clients of any refusal to allocate domain names three days at the latest after the receiving the information from the registry.<sup>15</sup>

**Art. 22** Legal relations

<sup>1</sup> The legal relations of registrars with applicants and holders of domain names are governed by the provisions of private law. The rules laid down by this Ordinance and its implementing provisions are reserved.

<sup>2</sup> Subject to Article 40 paragraph 4 TCA, registrars are free to fix the price of their registration services.

<sup>3</sup> Registrars shall publish the prices and the general conditions for their services.

**Art. 23** Obligation to collaborate

<sup>1</sup> Registrars shall work with the registry in order to identify or to assess threats, abuses and dangers which affect or might affect the management of the domain and of the domain names which are subordinate to it, the management infrastructure or the DNS. They may process personal data in connection with these incidents, if necessary without the knowledge of the persons concerned.

<sup>2</sup> They shall report to the specialist federal services incidents concerning security of information which affect their management systems and infrastructures or the DNS. They may process and communicate personal data in connection with these incidents to the services concerned, if necessary without the knowledge of the persons concerned.

<sup>3</sup> ...<sup>16</sup>

<sup>4</sup> On request, the registrars shall transmit to the acting dispute resolution service all the personal data in their possession which is necessary for the resolution of a dispute.

<sup>15</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>16</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS 2017 5225).

## Section 4 Allocation

### Art. 24 Application for registration

<sup>1</sup> When a registrar submits a registration application on behalf of an applicant, the registry shall initiate a domain name allocation process.

<sup>2</sup> It shall process the registration application when the latter:

- a. has been validly submitted via the registry's registration system;
- b. includes all the information, elements and documents necessary to authorise the allocation of a domain name, in particular:
  1. the designation desired as a domain name,
  2. up-to-date, complete and correct information on the applicant, in particular their name and postal and email addresses,
  3. current, complete and correct information enabling verification of compliance with the general and particular conditions of allocation of the required domain name.

<sup>3</sup> OFCOM shall determine the information, elements and documents which may be required by the registry or registrars in order to verify the name, address and legal existence of an applicant or compliance with the conditions of allocation of a domain name, in particular:

- a. if the applicant is an individual: a copy of a national identity document or a valid passport and a current certificate of residence;
- b. if the applicant is an association or a foundation with its headquarters in Switzerland and not entered in the commercial register: a certified copy of the articles of association or the foundation charter;
- c. if the applicant is a legal entity or a partnership with its headquarters abroad: an attested up-to-date extract from the foreign commercial register or, when the extract does not contain sufficient information or if there is no corresponding institution in the commercial register, an official document attesting that the entity exists legally in accordance with the provisions of the applicable foreign law;
- d. the business identification number (BIN) within the meaning of the Federal Act of 18 June 2010<sup>17</sup> on the Business Identification Number.

<sup>4</sup> If necessary, it shall regulate the modalities for submitting registration applications. It may demand the use of set forms for registrations and amendments.

### Art. 25 General conditions of allocation

<sup>1</sup> A domain name shall be allocated when:

- a. the required designation, or the corresponding ACE string, consists of 3 to 63 authorised characters; OFCOM shall determine the authorised characters

<sup>17</sup> SR 431.03

and may provide for exceptions concerning the minimum number of characters when an overriding public interest justifies this; the names of the Swiss cantons and political communes and abbreviations consisting of two characters which designate the cantons are reserved in accordance with Article 26 paragraph 1 letter b and may be allocated to the public bodies concerned;

- b. the requested designation is not the subject of a reservation under this Ordinance, unless the reservation was made by the person making the application;
- c. the particular conditions of allocation for the domain concerned are met.

<sup>2</sup> The registry shall refuse to allocate a domain name when:

- a. the chosen designation is contrary to public order, morality or the law in force;
- b. technical reasons so require.
- c.<sup>18</sup> a Swiss authority intervening within its sphere of competence notifies it that there is reason to believe that the applicant will use the requested domain name unlawfully or for an unlawful purpose;
- d.<sup>19</sup> an applicant whose domain name has been revoked under Article 15c paragraph 2 or Article 16 paragraph 3 requests to be allocated the same domain name again without indicating a valid correspondence address in Switzerland.

<sup>3</sup> It may refuse to allocate a domain name when the applicant is in a state of bankruptcy, liquidation or in administration proceedings.

#### **Art. 26** Reserved designations

<sup>1</sup> The following designations or categories of designations are subject to reservation in the national languages and in English:

- a. designations of federal institutions and units of the federal administration, names of federal councillors and of chancellors of the Confederation, designations of official buildings and other designations associated with the State which appear in the central list of designations deemed worthy of protection as domain names; this list is drawn up by the Federal Chancellery;
- b. the names of the Swiss cantons and political communes, and the abbreviations consisting of two characters which designate the cantons;
- c. names and abbreviations of the international organisations protected by Swiss legislation;
- d. designations which must be reserved in the generic top-level domains in accordance with the rules which apply at the international level;
- e. designations necessary for the activity of the registry, in particular for its communication.

<sup>18</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>19</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>2</sup> Reserved designations or categories of designations may be allocated as domain names only to those persons or categories of persons for whom they are reserved, unless the persons or categories of persons have permitted allocation to third parties; the foregoing does not apply to designations allocated to third parties before the designation is reserved or before this Ordinance comes into force. In the absence of agreement, homonymous canton and political commune designations are allocated to the commune concerned.

#### **Art. 27** Allocation process

<sup>1</sup> The processing of a registration application by the registry concludes with the allocation or the refusal of allocation of the requested domain name.

<sup>2</sup> The registry allocates the right to use a domain name. The allocation takes effect on its confirmation in electronic form via the registry system to the registrar operating on behalf of the applicant concerned.

<sup>3</sup> The registry shall notify the registrar acting on behalf of the applicant concerned of the refusal to allocate a domain name via the registration system in electronic form or if necessary by other means.

<sup>4</sup> OFCOM shall make a decision on the refusal to allocate a domain name if, within 40 days of the registry notifying the registrar acting for the applicant concerned of the refusal to allocate, the applicant:<sup>20</sup>

- a. requests such a decision; and
- b. provides a valid correspondence address in Switzerland if it is registered or domiciled abroad.

## **Section 5 Domain Names**

#### **Art. 28** Holder's rights

<sup>1</sup> The holder has the right to use the domain name which has been allocated to it within the prescribed limits and for purposes provided for by this Ordinance and its implementing provisions. The right of use is governed by public law.

<sup>2</sup> It shall manage freely the domain names subordinate to the domain name allocated to it, unless this Ordinance or its implementing provisions provide otherwise.

<sup>3</sup> It may transfer to a third party a domain name which has been allocated to it when the general and particular conditions of allocation are met by submitting, via the registrar which manages it, a change of holder request.

<sup>4</sup> It may give up its domain name at any time by submitting, via the registrar which manages it, a cancellation request. Civil claims for non-fulfilment of the contract concluded with the registrar are reserved.

<sup>20</sup> Amended by No 1 of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>5</sup> The right to use a domain name automatically passes:

- a. to the undertaking originating from a merger which becomes the holder of the domain names allocated to the merged undertakings;
- b. in the event of a demerger or a transfer of assets governed by the Mergers Act of 3 October 2003<sup>21</sup>, to the undertaking which takes over which then becomes the holder of the domain names allocated to the transferring undertaking mentioned in the inventory;
- c. to the heirs of the deceased holder.

<sup>6</sup> It reverts to the bankruptcy assets of the bankrupt holder.

#### **Art. 29** Holder's obligations

<sup>1</sup> The holder must keep up to date and if necessary supplement or correct all the information relating to it which is necessary for the management of the domain name which it has been allocated.

<sup>2</sup> It is obliged to take part in a dispute resolution procedure initiated by the holder of a right attached to a distinctive sign.

#### **Art. 30** Revocation

<sup>1</sup> The registry may, on its own initiative or at the request of the registrar concerned, revoke the allocation of a domain name:

- a. if the holder does not comply with this Ordinance or its implementing provisions;
- b. if the general or particular conditions imposed on the allocation of a domain name are no longer being complied with;
- c. if the holder does not comply with its obligation to keep up to date, supplement or correct all the information relating to it which is necessary for the management of the domain name which it has been allocated;
- d. if a registrar so requests after terminating its contract with the holder and the latter has not transferred the management of the domain name to a new registrar within 30 days;
- e. if there are other important reasons, such as technical reasons, standards or international harmonisation measures.

<sup>2</sup> The registry shall revoke the allocation of a domain name:

- a. if an amendment to this Ordinance or its implementing provisions so requires;
- b. if this proves necessary in order to protect the integrity or the stability of the DNS;
- c. if the holder gives up its domain name voluntarily;

<sup>21</sup> SR 221.301

- d. if the registrar operating on behalf of the holder is in a state of bankruptcy, liquidation or has had its registrar contract terminated and the holder does not transfer the management of the domain name to a new registrar within 90 days; this period runs from the time the registry has informed the holder of the necessity of transferring management of the domain name to a new registrar; the quarantine period within the meaning of Article 31 paragraph 3 is 90 days;
- e. if experts mandated by a dispute resolution service so request, unless a civil action has been filed within the period prescribed by the procedural rules of the dispute resolution service concerned;
- f. if a court or an arbitration tribunal so orders as part of a procedure which leads to an enforcement order or ruling in Switzerland;
- g. if a Swiss administrative or prosecuting authority so orders in accordance within its sphere of competence.

<sup>3</sup> A specialist appointed by a dispute resolution service, a court, an arbitration tribunal or a Swiss administrative or prosecution authority may within the scope of its competence issue provisional orders to the registry; the registry may in particular be required to:

- a. suspend or modify a domain names technically by deleting the related name servers in the zone file, replacing them with new name servers or not re-entering them after their deletion;
- b. suspend a domain name administratively by prohibiting its allocation or re-allocation to a third party, its transfer or any change in technical or administrative parameters relating to it;
- c. transfer a domain names to a different registrar;
- d. correct, amend or delete any information or technical or administrative parameters relating to the management of a domain name;
- e. correct, amend, anonymise or delete any information in the WHOIS-data base;
- f. allocate a domain name to itself or to a specific person;
- g. redirect data traffic leading to or via a domain name for analysis.<sup>22</sup>

<sup>4</sup> Die registry may take provisional measures in accordance with paragraph 3:

- a. if this is regarded as necessary in order to protect the integrity and stability of the DNS and there is an urgent need to avert imminent prejudice that cannot easily be remedied;
- b. for a maximum of five working days when there is reason to believe that that the holder is using the domain name unlawfully or for an unlawful purpose and there is an urgent need to avert imminent prejudice that cannot easily be remedied.<sup>23</sup>

<sup>22</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>23</sup> Inserted by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).



**Art. 31** Effect of revocation

<sup>1</sup> The revocation of a domain name takes effect as of its communication by the registry in electronic form to the registrar operating on behalf of the holder concerned via the registration system. It results in the revocation of the subordinate domain names.

<sup>2</sup> OFCOM takes a decision on the revocation of a domain name if, within the 30 days following the communication of this revocation, the holder:

- a. requests such a decision; and
- b. provides a valid correspondence address in Switzerland when it is registered or domiciled abroad.

<sup>3</sup> Subject to a longer quarantine period granted by this Ordinance, a revoked domain name may not be allocated to a new holder until 40 days after its revocation or the entry into force of a decision pursuant to paragraph 2. During this period, the revoked domain name must be reassigned from the date of revocation to its former holder if the latter so requests and the general and particular conditions of allocation are met.

**Chapter 3 Delegation of the Registry Function****Art. 32** Delegation procedure

<sup>1</sup> OFCOM may delegate to third parties (delegates) the registry function of a domain managed by the Confederation or particular tasks related to this function.

<sup>2</sup> It shall designate the delegate or delegates directly or by initiating an open or selective procedure within the meaning of Article 34 paragraph 1 of the Ordinance of 11 December 1995<sup>24</sup> on Public Procurement.

**Art. 33** Form of delegation

The delegation to third parties of the registry function of a domain managed by the Confederation or of particular tasks related to this function shall take the form of a contract under administrative law (delegation contract).

**Art. 34** Term of the delegation

<sup>1</sup> The delegation contract is drawn up for a specific term. Its term is fixed according to the nature and importance of the delegated tasks.

<sup>2</sup> It may be extended or renewed.

<sup>24</sup> SR 172.056.11

**Art. 35** Essential activities or services

The delegate requires OFCOM's consent in order to delegate to third parties activities or services constituting an essential element of the function.

**Art. 36** Separation of interest

<sup>1</sup> The delegate may not at the same time exercise the function of registrar for the domain which it manages.

<sup>2</sup> If the delegate is linked legally or economically to an entity which exercises a registrar function for the domain, an independent execution of the tasks must be guaranteed in the delegation contract by suitable measures such as the prescription of specific forms of public communication or the obligation to guarantee the autonomy of the personnel employed.

**Art. 37** Delegation of tasks

<sup>1</sup> The tasks of the registry are agreed in the form of a list of services; qualitative criteria are defined in order to verify the execution of the tasks.

<sup>2</sup> Other services of the registry may be agreed, in particular for collaboration in appropriate international forums and organisations or within the sphere of data protection and internet security.

<sup>3</sup> The registry must prove that it has adequate insurance to cover the risks related to its activities of domain name management and allocation.

**Art. 38** Price

<sup>1</sup> The price which registrars must pay annually for the registration of a domain name and for administration of the data is fixed in the delegation contract.

<sup>2</sup> When the delegation of tasks is the result of an open or selective procedure under Article 32 paragraph 2, the following rules apply:

- a. the price corresponds to the offer;
- b. the offer price may be adapted during the term of delegation if the delegated tasks change; the difference in price is calculated based on the changes in costs arising from the change in tasks; the delegate submits an offer to OFCOM and provides proof of the change in costs; in order to examine the offer, OFCOM may use comparison values and may ask to be provided with any useful documents.

<sup>3</sup> When the delegation of tasks takes place directly, the price covers the relevant costs of the registry related to the catalogue of services agreed with OFCOM and additionally makes it possible to make an appropriate profit.

**Art. 39** Obligation to inform

<sup>1</sup> Delegates are obliged to provide OFCOM with all the information and documents necessary for the execution of this Ordinance and its implementing provisions.

<sup>2</sup> They are obliged to transmit free of charge to OFCOM the information necessary for the compilation of official statistics. Articles 97 to 103 of the Ordinance of 9 March 2007<sup>25</sup> on Telecommunications Services apply by analogy.

**Art. 40** Surveillance

<sup>1</sup> OFCOM shall ensure that delegates comply with this Ordinance and its implementing provisions, and with their delegation contract.

<sup>2</sup> Normally it verifies once every two years the manner in which delegates fulfil the delegated function or tasks. The delegates must grant access to their premises and their installations and must provide all the information required.

<sup>3</sup> If there is reason to suspect that a delegate is not complying with the obligations arising from this Ordinance, its implementing provisions or the delegation contract, OFCOM shall perform an audit. The delegate must guarantee access to its premises and its installations and must provide all the information required.

<sup>4</sup> If the audit establishes that the delegate is not fulfilling its obligations, the delegate bears the costs thereof.

**Art. 41** Surveillance measures

<sup>1</sup> If a delegate does not fulfil its obligations, OFCOM may:

- a. require it to remedy the shortcoming or to take appropriate measures to prevent any repetition; the delegate must inform OFCOM of the measures taken;
- b. require it to transfer the unlawfully acquired revenue to the Confederation;
- c. add conditions to the delegation contract;
- d. restrict or terminate the delegation contract with immediate effect or within a specific period.

<sup>2</sup> OFCOM may order provisional measures.

**Art. 42** Modification of the delegation contract

<sup>1</sup> OFCOM may modify by administrative decision certain provisions of the delegation contract before the expiry of its period of validity if the de facto or de jure conditions have changed and if modification is necessary to preserve overriding public interests.

<sup>2</sup> The delegate shall receive appropriate compensation if modification of the delegation contract causes it a financial loss relating to the delegated function or tasks. This compensation does not include the compensation for loss of profits.

**Art. 43** End of the delegated activity

<sup>1</sup> OFCOM shall terminate the delegation contract without compensation if a delegate no longer fulfils the conditions for exercising the delegated function or tasks, ceases all activity or is in a state of bankruptcy, liquidation or in administration proceedings.

<sup>2</sup> It may terminate the delegation contract by appropriately compensating the delegate if the de facto or de jure conditions have changed and if the termination is necessary to preserve overriding public interests. The compensation does not include compensation for loss of profits. It takes into account the amount received by the delegate under paragraph 5 letter b for the assistance provided.

<sup>3</sup> OFCOM may take over the delegated function or task or entrust it to a new delegate.

<sup>4</sup> Holders retain their rights vis-à-vis the new registry to the domain names which have been allocated to them.

<sup>5</sup> The delegate is obliged to collaborate and to provide the new registry with all the technical and organisational assistance necessary to ensure the continuity and security of the management of the domain concerned and of the domain names subordinate to it. It is entitled to compensation based on the utility value of its assistance. The compensation is, on request, fixed by OFCOM. The delegate must in particular make available:

- a. free of charge: the activities log and the entirety of the conserved data or information which relates to the domain concerned and to the holders of the allocated domain names or the management activities associated with these domain names and their characteristics, in particular their technical characteristics;
- b. in return for compensation for the asset value: the technical and data-processing infrastructure essential for the continuation of the function or of the delegated tasks.

<sup>6</sup> The delegate shall ensure that the persons affected are aware of the cessation of its activities and of the steps to be taken to safeguard their claims.

**Chapter 4 The «.ch» Domain****Art. 44** Object

The provisions of this Chapter govern the management of the «.ch.» top-level domain and the management and allocation of second-level domain names which are subordinate to it.

**Art. 45** Characteristics

<sup>1</sup> The «.ch» domain has the following characteristics:

- a. it constitutes a top-level country domain managed by the Confederation;

- b. the domain names which are subordinate to it may be allocated to or used by any physical and moral person;
- c. the registrar function is exercised in free competition by all the entities which have concluded a registrar contract with the registry.

<sup>2</sup> The registry establishes a dispute resolution service within the meaning of Article 14.

**Art. 46** Data made available to the public

<sup>1</sup> The following data must appear in the WHOIS database:

- a. the designation of the allocated domain name and corresponding ACE string;
- b.<sup>26</sup> the name and postal address of the holder of the domain name concerned;
- c.<sup>27</sup> in the case of an activated domain name: the data relating to the allocated name server;
- d. and e.<sup>28</sup> ...
- f.<sup>29</sup> the name and postal address of the person with technical responsibility;
- g. the information according to which a domain name is or is not protected by the DNSSEC system;
- h. the date of the first allocation of the domain name;
- i. the full name of the registrar acting on behalf of the holder of the domain name concerned.

<sup>2</sup> The registry shall take suitable measures, in particular technical measures, to prevent abuse of the data made available to the public, in particular its use for the purpose of advertising or sales promotion.

**Art. 47** Particular conditions of allocation

<sup>1</sup> If a domain name is not yet allocated and the general conditions prescribed in Article 25 are met, the registry shall allocate the name to the first applicant who applies for it.

<sup>2</sup> The registry does not check the merits of the rights to use the alphanumeric denominations of domain names. Disputes relating to the rights attached to distinctive signs in relation to domain names are governed by civil law.

<sup>26</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>27</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>28</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS 2017 5225).

<sup>29</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

**Art. 48** Transposed «.ch» domains

<sup>1</sup> «.ch» country domains that are transposed into another alphabet or graphic system are managed by their own specific registry. OFCOM may entrust this management to the registry of the «.ch» domain.

<sup>2</sup> Otherwise, the provisions of this Ordinance which govern the «.ch» domain apply by analogy to the management of a transposed «.ch» domain.

**Chapter 5 The «.swiss» Domain****Section 1 General Provisions****Art. 49** Object

The provisions of this Chapter govern the management of the «.swiss» top-level domain and the management and allocation of second-level domain names which are subordinate to it.

**Art. 50** Characteristics

The «.swiss» domain has the following characteristics:

- a. it is managed by the Confederation;
- b. the domain and the domain names which are subordinate to it are intended to serve and promote the Swiss community, its image and its political, economic, legal or cultural interests in Switzerland and in the world;
- c. the subordinate domain names may be allocated only to entities located in Switzerland or having a particular link with Switzerland;
- d. the policy of assigning domain names must be implemented in a prudent manner protective of the interests of the Swiss community; it may restrict the categories of designations that are available for allocation or the eligibility of persons who may require such an allocation;
- e. the registrar function is exercised in free competition by all the entities which have a valid registrar contract with the registry.

**Section 2 Registry****Art. 51** Particular tasks

<sup>1</sup> In the exercise of its functions, the registry has the following particular tasks:

- a. to offer a single arrangement (a single point of contact) allowing any person to bring to the attention of the registry a domain name the allocation or use of which are likely to be illegal or contrary to public order;

- b. to monitor by random samples that the allocated domain names comply with the conditions of allocation and that their use is not manifestly illegal or contrary to public order;
- c. to take commercial communication or sponsorship measures in order to promote the «.swiss» domain.

**Art. 52** Data made available to the public

<sup>1</sup> The following data must appear in the WHOIS database:<sup>30</sup>

- a. the designation of the allocated domain name and corresponding ACE string;
- b. the name, address and contact data of the holder of the domain name concerned;
- c. the name, address and contact data of the administrator of the domain name concerned;
- d. the information relating to the technical, operational or administrative status of the domain name concerned;
- e.<sup>31</sup> in the case of an activated domain name: the data relating to the allocated name server;
- f. the name, address and contact data of the registrar acting on behalf of the holder of the domain name concerned.

<sup>2</sup> The registry provides search facilities in the WHOIS database on the basis of criteria such as the domain name concerned, the registrar in charge of its management or the designation of the name server.

### Section 3 Allocation

**Art. 53** Particular conditions of allocation

<sup>1</sup> A domain name is allocated when the following particular conditions are met, in addition to the general conditions provided for by Article 25:

- a. the applicant provides proof of a sufficient link with Switzerland; this is in particular the case when its headquarters and an actual administrative site or its residence is in Switzerland, or if the person concerned is a Swiss citizen;
- b. the applicant belongs, at the time of submission of the registration application, to a category of persons entitled to request an allocation (eligibility);
- c. the requested designation belongs, at the time of submission of the registration application, to a category of designations which may be the subject of an allocation;

<sup>30</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>31</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

- d. the envisaged use complies with Swiss law; if the domain name is used to offer or advertise products or services, a headquarters and an actual administrative site or domicile in Switzerland are essential;
  - e. the requested designation may legitimately be regarded as having an objective relationship with the applicant or the envisaged use of the domain name; this is in particular the case when the domain name meets one of the following conditions:
    1. it contains a designation to which the applicant has a claim under trademark law,
    2. it refers to a designation objectively linked to the State or to its activities which is required by the public body or the public law organisation concerned,
    3. it contains a geographical designation:
      - to which the applicant has a right or in which it has a legitimate interest,
      - to which it has a right or in which it has a legitimate interest in the public mind, or
      - that it is authorised to use by the public body or bodies or other organisations concerned,
    4. it refers to a designation in which the applicant has a legitimate interest or which is associated with this applicant in the public mind;
  - f. the requested designation does not correspond to or is not related to a designation with a generic character, subject to the provisions relating to the naming mandate (Art. 56).
- <sup>2</sup> The registry may refuse the allocation of a domain name:
- a. when the chosen designation may manifestly lead to confusion with a domain name already allocated;
  - b. when it is clear, on the basis of brief examination, that the chosen designation infringes third-party trademark rights; otherwise, the merits of the rights to use the alphanumeric designations of domain names is not verified; disputes relating to trademark rights in relation to domain names are governed by civil law;
  - c. when the characteristics or values which underlie the domain oppose such allocation.

<sup>3</sup> In exceptional cases, the registry may allocate domain names which do not meet the particular conditions of allocation when the interest of this allocation for the Swiss community so justifies.



**Art. 54**<sup>32</sup>**Art. 55**<sup>33</sup> Eligibility and staggered opening

The following are eligible to allocate a domain name:

- a. public bodies or other Swiss public law organisations;
- b. entities entered in the Swiss commercial register having their headquarters and an actual administrative site in Switzerland;
- c. associations and foundations not entered in the Swiss commercial register having their headquarters and an actual administrative site in Switzerland;

**Art. 56** Naming mandate

<sup>1</sup> The domain names which correspond to or which are connected with designations of a generic character with a particular interest for all or part of the Swiss community must be allocated under a naming mandate. OFCOM may draw up and keep up to date a non-exhaustive list of the designations or categories of designation concerned.

<sup>2</sup> The registry may allocate domain names under a naming mandate:

- a. following a call for tenders; if necessary it regulates the modalities of the tendering procedure; the latter must conform to the principles of objectivity, non-discrimination and transparency, while guaranteeing the confidentiality of the data provided by the candidates; or
- b. on the basis of a spontaneous candidature.

<sup>3</sup> Any candidate for a domain which is to be allocated under a naming mandate must:

- a. demonstrate that it complies with the general and particular conditions imposed on the allocation of a domain name;
- b. demonstrate that it represents all or an important part of the community concerned with the requested designation or that its candidature benefits from the support of all or an important part of this community;
- c. indicate the possible related domain names in German, French, Italian or English which it wishes to integrate into the naming mandate;
- d. demonstrate that the envisaged use of the domain name and the performances or services offered in connection with this name benefit the whole of the community concerned;
- e. demonstrate the manner in which it will ensure that the requirements provided for under Title 2 of the Trademark Protection Act of 28 August 1992<sup>34</sup> are complied with by all the products offered using a domain name the designation of which refers to a product, to its characteristics or to a category of products;

<sup>32</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS 2017 5225).

<sup>33</sup> Amended by No I of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225).

<sup>34</sup> SR 232.11

- f. demonstrate the extent to which its project provides added value for the community concerned and for the Swiss community;
- g. demonstrate that it meets the conditions prescribed by OFCOM for the quality of the domain name or of the desired project;
- h. provide a draft of a naming mandate.

<sup>4</sup> The registry shall publish the candidatures. Other applicants may submit an application for this same domain name within the 20 days following publication.

<sup>5</sup> In the event of a multiple candidature, the registry shall allocate the domain name to the candidate whose project provides added value for the community concerned and for the Swiss community that is clearly greater than that of the other projects.

<sup>6</sup> If no project meets the requirement set out in paragraph 5 and the candidates cannot agree on a single or joint candidature, the registry shall decide on the allocation by drawing lots or holding an auction. The proceeds from the auction are paid into federal funds.

<sup>7</sup> A domain name under a naming mandate is allocated for a specified term. It must be used.

<sup>8</sup> The rules applicable to the supervision of persons that are delegated the registry function of a domain managed by the Confederation (Art. 40 to 43) apply by analogy to naming mandates, and in particular to their revocation.

<sup>9</sup> The registry shall disclose naming mandates to third parties which request them; it may also make them available by a consultation procedure or publish them in another manner. The clauses and annexes containing confidential commercial information may not be communicated.

#### **Art. 57**            The allocation process

<sup>1</sup> The registry shall examine any application for registration of a domain name and publishes them, unless the application manifestly does not meet the general and particular conditions for allocation. Other applicants may submit a registration application for this same domain name within the 20 days following publication.

<sup>2</sup> In the event of a multiple application, the registry allocates the domain name concerned in the following order of priority:

- a. in principle to the public body or to the public law organisation making the application when the latter is in competition with private applicants and the requested designation as such is of public interest;
- b. to the public body or public law organisation that intends to use the domain name concerned in a manner that provides added value which is manifestly greater for the Swiss community compared to the other envisaged uses; if no project satisfies this requirement and the public bodies or public law organisations submitting the application cannot agree on a single or joint candidature, the registry does not allocate the domain name;

- c. in principle to the applicant which has a right to a trademark corresponding to the domain name concerned when it is in competition with applicants not benefiting from such a right;
- d. to the highest bidder in an auction when the applicants have competing rights under trademark law to the domain name concerned, unless holding an auction appears inappropriate in light of all the circumstances or the applicants concerned; the proceeds from the auction are paid into federal funds;
- e. to the applicant which was first to submit a registration application when all the applicants constitute non-profit-making entities and effectively pursue such aims;
- f. to the applicant that intends to use the domain name concerned in a manner that provides added value which is manifestly greater for the Swiss community compared to the uses envisaged by the other applicants; if no project satisfies this requirement and the applicants cannot agree on a single or joint candidature, the registry decides on the allocation by drawing lots or holding an auction; the proceeds from the auction are paid into federal funds.

<sup>3</sup> Subject to the prior examination under Article 53 paragraph 2 letter b, the registry does not verify the merits of the rights to use the alphanumeric denominations of domain names. Disputes relating to the trademark rights in relation to domain names are governed by civil law.

## **Section 4    Revocation**

### **Art. 58**

The registry may, on its own initiative or at the request of the registrar concerned, revoke the allocation of a domain name:

- a. if it appears that a generic designation allocated as a domain name should have been allocated under a naming mandate; the beneficiary of the naming mandate shall pay the former holder compensation which includes all the costs of registration and management of the revoked domain name;
- b. if it is evident, on the basis of a brief examination, that the designation allocated as a domain name infringes a trademark right;
- c. if the domain name contains a geographical denomination which is of particular interest for all or part of the Swiss community and is required by a public body or another public law organisation; the latter pays the former holder compensation which includes all the costs of registration and management of the revoked domain name;
- d. if there is reason to believe that the holder has applied for the registration for the sole purpose of harming the reputation of the holder of a legitimate interest in this name or a connected name, or that of a product or service associated with this name in the mind of the public;

- e. if there is reason to believe that the holder has applied for the allocation for the purpose of profiting from the reputation of the holder of a legitimate interest in this name or in a name or product associated with this name in the mind of the public;
- f. if the characteristics or values which underlie the domain so require.

## **Chapter 6 Domains managed by other Swiss Public Bodies**

### **Art. 59**

<sup>1</sup> Swiss public bodies may apply to acquire top-level generic domains of their choice from the ICANN.

<sup>2</sup> They shall comply with the following principles:

- a. they ensure that Swiss law and the interests of Switzerland are respected during the management and use of the domains and domain names which are subordinate to them;
- b. they ensure the security and availability of the infrastructure and the services necessary for the operation of the DNS;
- c. they shall take measures to prevent abuse of the data made available to the public.

<sup>3</sup> OFCOM shall monitor compliance by the public bodies concerned with the management principles prescribed in paragraph 2. If necessary, it shall stipulate the measures or requirements relating to the security and availability of the infrastructure and services necessary for the operation of the DNS and to prevent abuse of the data made available to the public.

<sup>4</sup> If a public body which has acquired a generic domain has not laid down the necessary rules, it shall manage this domain in accordance with the provisions of this Ordinance which govern the «.ch» domain.

## **Chapter 7 Final Provisions**

### **Section 1 Implementation**

#### **Art. 60**

<sup>1</sup> OFCOM shall issue the necessary technical and administrative regulations.

<sup>2</sup> It is entitled to conclude international agreements relating to technical or administrative issues that fall within the scope of this Ordinance.

**Section 2: ...**

**Art. 61–64**<sup>35</sup>

**Section 3 Commencement**

**Art. 65**

This Ordinance comes into force on 1 January 2015.

<sup>35</sup> Repealed by No I of the O of 15 Sept. 2017, with effect from 1 Nov. 2017 (AS 2017 5225).

*Annex*<sup>36</sup>  
(Art. 3)

## Terms and abbreviations

In this Ordinance:

- a. *DNS (Domain Name System)* means a system implementing a collective organisation and a structured management in a hierarchical manner of domain names and their resolution into an IP address (and vice versa);
- b. *Domain or internet domain* means a sub-set of the hierarchical structure of the DNS which is the subject of joint management of the domain names which are subordinate to it;
- c. *Domain name* means a unique communication parameter, composed of a series of alphanumeric, ideographic or other characters which make it possible to identify a domain;
- d. *ACE-String (ASCII [American Standard Codes for Information Interchanges] Compatible Encoding-String)* means a character string made up of the characters A to Z (without accents or inflected vowels) and numerical characters 0 to 9 as well as hyphens which is established by means of technical processes. A domain name is registered in the form of the ACE-String in the DNS;
- e. *Internet Protocol address or IP address* means a numerical communication parameter, defined in the IP protocol, which identifies an element of the internet network;
- f. *ICANN (Internet Corporation for Assigned Names and Numbers)* is a non-profit corporation under Californian law which has in particular the task of assigning the IP address space, managing the top-level domains of the DNS and ensuring the operation of its root servers;
- g. *ISO* is the International Organisation for Standardisation;
- h. *Top-Level Domain [TLD]* means a domain of the highest level of the DNS which defines, by means of a character string authorised by ICANN, a particular namespace;
- i. *Generic Top-Level Domain [gTLD]* means a top-level domain the designation of which identifies a community, a distinctive sign, a sector of activity or a circle of particular interests;
- j. *Country code Top-Level Domain [ccTLD]* means a top-level domain the designation of which, formed by a character string in conformity with ISO standard 3166-1 alpha-2, identifies a country or a geographical area;

<sup>36</sup> Revised by No II of the O of 15 Sept. 2017, in force since 1 Nov. 2017 (AS 2017 5225)..

- k. *WHOIS database* means a database which guarantees to any interested person access in real time to information relating to the holders of domain names;
- l. *Registry* means an entity charged with the central organisation, administration and management of a top-level domain, and with the allocation and revocation of rights of use of the domain names which are subordinate to it;
- m. *Registrar* means an entity entitled to undertake with the registry the technical and administrative operations permitting registration, on behalf of applicants, of the desired domain names and to ensure the administrative follow-up;
- n. *Registration* means all the technical and administrative operations carried out by a registrar with the registry with the purpose of obtaining the allocation of a domain name for an applicant;
- o. *Allocation* means the legal act by which the registry grants, via a registrar, the right to use a domain name to an applicant;
- p. *Holder* means any physical or moral person allocated the right to use a domain name by the registry;
- q. *Designation with a generic character* means a designation which refers to or generally describes a category or a class of goods, services, people, groups, organisations, products, techniques, sectors or activities;
- r. *Naming mandate* means the legal act by which the registry allocates a generic domain name or a series of related generic domain names subject to compliance with the particular modalities of use;
- s. *DNSSEC (Domain Name System Security Extensions)* means a standardised protocol of the IETF (Internet Engineering Task Force) which makes data exchange within the DNS secure;
- t. *Transfer* means the legal act by which the registry allocates the administrative management of a domain name to a new registrar at the request of the holder;
- u. *Right attached to a distinctive sign* means a right recognised by the legal order which derives from the registration or use of a sign and which protects its holder from attacks on its interests generated by the registration or use by third parties of an identical or similar sign.

